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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,166	05/30/2006	Assaf Gil	3032/7	9414
7590	10/28/2008			
Mark Friedman Bill Polkinghorn 9003 Florin Way Upper Marlboro, MD 20772			EXAMINER VU, THONG H	
			ART UNIT 2419	PAPER NUMBER
			MAIL DATE 10/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/560,166	GIL ET AL.
	<b>Examiner</b> Thong H. Vu	<b>Art Unit</b> 2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) \_\_\_\_ is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: ____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: ____	6) <input type="checkbox"/> Other: ____

1. Claims 1-6,9-22 are pending. Claims 7,8 are canceled.

2. In view of the Appeal Brief filed on 8/11/08, PROSECUTION IS HEREBY REOPENED.

The Non-Final Office Action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

***Response to Arguments***

3. Applicant's arguments filed 7/08/08 have been fully considered but they are not persuasive.

A. Claims 1-3 and 9-11:

Applicant argues the prior art does not teach or suggest

a. "the audio content can be updated from an external source";

- b. "communication unit contained within said body";
- c. "at least one user-operable switch manually operable by manipulation of at least one region of said body";

Examiner points out

a. The remote computer system provides control data and audio data to the toy [Sharpe, col 9 lines 13-22]; new files and program information can be downloaded from a remote computer system and periodically updated by the manufacturer [Sharpe, col 9 lines 23-35];

b. a reprogrammable data storage within the toy [Sharpe, col 10 lines 6-24]. It's clearly that the reprogrammable data storage as a communication unit within the toy or said body could received the new program downloaded from an external source.

c. The prior art taught an animated body part, preferable an animated mouth, which moves in synchronization with the audio [Sharpe, col 2 lines 33-40; col 6 lines 15-26]; the particular type of servo motor and linkage can vary according to the animated body part [Sharpe, col 6 lines 27-40]; the switch logic control the switches 78,80 each control operation of the toy in four different mode [Sharpe, col 8 liens 1-30, Fig 5]. It clearly that the user can operate by manipulate or control the body part via switch logic by input (or manual) the program (i.e.: logic) to switches.

B. Claims 4 and 16, 19-22:

Applicant argues the prior art does not teach or suggest "configured for initiating a data connection across a cellular telephone network";  
Examiner points out

The prior art taught a remote computer 92 connect to a local computer 50 via the modem 94 and 96 [Sharpe, Fig 4]. It's clearly that the modem connected to the telephone network either wired or wireless (i.e.: cellular) as a design choice.

C. Claims 5 and 17:

Applicant argues the prior art does not teach or suggest

"A socket configured for wired connection to the telephone network:

Examiner points out

The prior art taught a remote computer 92 connect to a local computer 50 via the modem 94 and 96 [Sharpe, Fig 4]. It's clearly that the modem connected to the telephone network either wired or wireless as a design choice.

Thus, the rejection sustained.

***Claim Rejections - 35 USC § 103***

Claims 1-5,9,16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharpe III et al (6,012,961 A) in view of Bart et al [Bart 6,514,118 B1].

4. As per claim 1, Sharpe discloses a story-telling doll [Sharpe, A electronic toy 10, Fig 1] comprising:

- (a) a doll body [Sharpe, toy 36, Fig 3];
- (b) a processing system including at least one digital processor, said processing system being contained within said body; (c) a programmable data storage device associated with said processing system and contained within said body ; (d) an audio output device associated with said processing system and contained within said body [Sharpe, col 3

lines 1-8; col 4 lines 12-40, Fig 1];

(f) a communication unit associated with said processing system and contained within said body [Sharpe, col 3 lines 1-8, Fig 1], said communications unit being configured operable under control of said processing unit in response to said input signal to:

- (i) initiate a data communications link via a general purpose communications network with a remote content provider source [Sharpe, modem, 96, Fig 4],
- (ii) transmit to the remote content provider a request for download of at least one data file including audio content [Sharpe, download, col 5 line 9], and
- (iii) receive the at least one data file including audio content from the remote content provider [Sharpe, remote computer via modem, col 2 line 22],

wherein the processor system is operative to save the at least one data file in said storage device and subsequently to play said audio content read from said at least one data file via said audio output device [Sharpe, playback mode, col 9 line 3].

Sharpe also taught a switch 28A providing the toy behavior [Sharpe, switch 28A, Fig 2]. However Sharpe does not explicitly detail

- (e) at least one user-operable switch manually operable by manipulation of at least open region of said body, said at least one switch being operative to provide an input signal to said processing system;

In the same endeavor, Bart taught a stuff animal toy emulates the awakening upon the user touching or manipulating one of location or region of body thereby activating an audio message [Bart, abstract] [see Wingate reference for the same concept]

Therefor it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the toy with responsive behavior as taught by Bart into the Sharpe 's apparatus in order to utilize the behavior switch on the toy body.

Doing so would provide a capability of playing different features with audio messages.

5. As per claim 2, Sharpe-Bart disclose a modem [Sharpe, modem, 96, Fig 4],
6. As per claims 3,19 Sharpe-Bart disclose a PSTN [Sharpe, switching network, col 7 line 64].
7. As per claims 4, 18 Sharpe-Bart disclose cellular network [Sharpe, wireless network, col 7 line 61].
8. As per claims 5, 17 Sharpe-Bart disclose a socket [Sharpe, port 24, Fig 2].
9. As per claims 8,20 Sharpe-Bart disclose a switch manually operable by manipulation of a head of the doll body [Sharpe, body part, col 6 line 20].
10. As per claim 9, Sharpe-Bart disclose a button [Sharpe, button switch 28A, Fig 2].
11. As per claim 16, Sharpe discloses A story-telling doll comprising:
  - (a) a doll body [Sharpe, toy 36, Fig 3];
  - (b) a processing system including at least one digital processor, said processing system being contained within said body; (c) a programmable data storage device associated with said processing system and contained within said body; (d) an audio output device associated with said processing system and contained within said body [Sharpe, col 3 lines 1-8; col 4 lines 12-40, Fig 1];

and

(f) a communications unit associated with said processing system and contained within said body, said communications unit being configured to operate under control of said processing unit to:

(i) establish a data communications link with a cellular telephone [Sharpe, modem line, 96, Fig 4], and

(ii) receive from the cellular telephone at least one data file including audio content [Sharpe, remote computer via modem, col 2 line 22], wherein said processor system is operative to save the at least one data file in said storage device and subsequently to play said audio content read from said at least one data file via said audio output device [Sharpe, playback mode, col 9 line 3].

Sharpe also taught a switch 28A providing the toy behavior [Sharpe, switch 28A, Fig 2]. However Sharpe does not explicitly detail

(e) at least one user-operable switch manually operable by manipulation of at least one region of said body, said at least one switch being operative to provide an input signal to said processing system;

In the same endeavor, Bart taught a stuff animal toy emulates the awakening upon the user touching or manipulating one of location or region of body thereby activating an audio message [Bart, abstract] [see Wingate reference for the same concept]

Therefor it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the toy with responsive behavior as taught by Bart into the Sharpe 's apparatus in order to utilize the behavior switch on the toy body.

Doing so would provide a capability of playing different features with audio messages.

***Claim Rejections - 35 USC § 103***

Claims 10-11,21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharpe III et al (6,012,961 A) in view of Bart et al [Bart 6,514,118 B1] and further in view of Rifkin et al (5,873,765 A).

12. As per claim 10, Sharpe-Bart does not disclose a rechargeable battery. Rifkin taught a toy with a battery power [Rifkin, col 4 line 7].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the toy with battery as taught by Rifkin into the Sharpe 's apparatus in order to utilize the toy.

Doing so would provide the toy with power source to simulate the audio program and movement.

13. As per claims 11,22 Sharpe-Bart-Rifkin disclose a rechargeable battery deployed within said doll body for powering at least said processor system, said rechargeable battery being electrically connected to a connector; and a charging unit deployed separate from said doll body and configured for mating with said connector so as to charge said rechargeable battery as an alternative choice of batteries.

***Allowable Subject Matter***

14. Claims 6, 12-15 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong H. Vu whose telephone number is 571-272-3904. The examiner can normally be reached on 6:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong H Vu/  
Primary Examiner, Art Unit 2419